

IN THE HIGH COURT OF HIMACHAL PRADESH, SHIMLA

Cr. Appeal No.478 of 1992

Decided on : 12th September, 2007

State of H.P.	...Appellant.
Versus	
Sher Mohammad	...Respondent.

Coram

The Hon’ble Mr. Justice Surjit Singh, Judge.

The Hon’ble Mr. **Justice Surinder Singh, Judge.**

Whether approved for reporting? No

For the appellant : Mr. Som Dutt Vasudeva, **Additional Advocate General, with Mr. D.S. Nainta, Deputy Advocate General.**

For the respondent : Mr. N.K. Thakur, Advocate.

Surjit Singh, Judge(Oral)

Respondent was sent up for trial for an offence punishable under Section 20 of the Narcotic Drugs and Psychotropic Substances Act, 1985, for allegedly being in possession of 5 Kgs of Charas while traveling by a bus which started from Kathwar for Chamba. PW-11 Rai Singh, Inspector, when present at a place called Sarol, received a secret information that a man with particular description, which resembled that of the respondent, was travelling by the bus, in question, with Charas. When the bus reached at Sarol, it was got stopped and checked. Respondent was found sitting on one of the seats of the bus with a bag, which on checking was found to contain Charas. One sample, separated from the recovered stuff, was sent to the Chemical Examiner, who opined that it contained resin of Cannabis plant.

Whether reporters of the local papers may be allowed to see the judgment?

2. Trial Court has acquitted the respondent on the grounds that the independent witnesses have not been associated and the provision of Section 50 of the Narcotic Drugs and Psychotropic Substances Act, had not been complied with.

3. We have heard the learned Additional Advocate General. From the perusal of the record, we find that even though this was a case of prior information received by PW-11 Rai Singh, SHO, Police Station Sadar and the search was conducted in a bus, which is a conveyance within the meaning of Section 42 of the Narcotic Drugs and Psychotropic Substances Act, the provision of sub-section (1) of Section 42 of the Act had been given a complete go-by, inasmuch as the information received by PW-11 Rai Singh, had not been reduced into writing. It is conceded by the learned Additional Advocate General that this information was not reduced into writing. That means, the provision of Section 42 of the Narcotic Drugs and Psychotropic Substances Act had not been complied with.

4. It has been held by the Apex Court in **State of Punjab Vs. Baldev Singh**, (1999) 6 SCC 172 that the provision of Section 42 of the Narcotic Drugs and Psychotropic Substances Act is mandatory and its non-compliance entitles the accused to acquittal.

5. On account of the non-compliance of the aforesaid mandatory provision of law, we feel that there is absolutely no scope for interference in the judgment of acquittal recorded by the trial Court. Hence, the appeal is dismissed.

(Surjit Singh), J

September 12, 2007_(ss)

(Surinder Singh), J